



C.R.P(PD)No.679 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.679 of 2022
and C.M.P.No.3464 of 2022

Jayamohan @ Mohan
S/o.Sriramulu Naidu

... Petitioner

Vs.

P.Ramasubbu
S/o.late Perumalsamy rep. by his
Power Agent Ravinthiran
S/o.Ganesan
No.5018, South Street
Keezhpoovani, Srivaikundam Taluk
Thoothukudi

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, against the order dated 09.09.2021 dismissing I.A.No.586 of 2018 in O.S.No.15 of 2018 which was filed under Order VII Rule 11 C.P.C. by the District Munsif, Chengalput.

For Petitioner : Mr.R.Sankarappan



ORDER

The defendant in O.S.No.15 of 2018 which is laid by respondent for cancellation of certain decree passed in 1975, has taken out an application in I.A.No.586 of 2018 for rejection of plaint on the ground that the entire property has now vested in the Salt Department and neither of the parties are in possession. This is dismissed by the trial Court and hence the defendant has approached this Court.

2.Heard the learned counsel for the revision petitioner / defendant.

3.If the property is not in defendant's possession, the ideal option for him is not to contest the suit if he is so convinced about it. If however, he wants to establish if the plaintiff has a cause of action for the suit, it can be determined only if the suit goes for trial, which may imply that he necessarily participates and contests the suit. These are the only two options open to the defendant.

4.Now the defendant has come forward with a third option of vesting the land in another person. This defence ultimately is not even available to the present

defendant. This Court does not find any need to interfere with the order of the



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trial Court dismissing the aforesaid petition of the defendant for rejecting the
plaint for the cause stated.

5.In the result, this Civil Revision Petition stands dismissed at the admission
stage itself. Consequently, the connected C.M.P.No.3464 of 2022 is also
dismissed. No costs.

10.03.2022

Index : Yes/No
Internet : Yes/No
Speaking / Non Speaking order

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To

The District Munsif
Chengalput.

N.SESHASAYEE, J.,



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